

REMARKS

Claim amendments

Claims 1-9, 11-12, 153, and 156-157 have been amended. New claim 164 has been added. Support for this claim can be found in paragraph 281 and originally filed claim 43. Claims 14-152, 155, and 158-163 have been cancelled. Accordingly claims 1-13, 153-154, 156-157 and 164 are pending. No new matter has been added by the claim amendments or claim additions.

Specification amendments

The specification has been amended to correct typographical errors, remove duplicate text and add SEQ ID NO identifiers. Accordingly, no new matter has been added.

Claim objections

Claim 156 was objected to for failing to comply with sequence Rules. This claim has been amended to recite a SEQ ID NO. Accordingly, applicants request withdrawal of this objection.

Claim rejections under 35 U.S.C. §112, second paragraph

The claims have been amended to more particularly point out and distinctly claim the invention. More particularly, claims 1 and 5 have been amended to clarify “P” and “A.” Claims 1, 5 and 9 have been amended to clarify the Markush group. Claims 3 and 7 have been amended to clarify “A.” Claim 7 has been amended to clarify “Y.” Claim 9 has been amended to clarify “X.” Claim 15 has been cancelled. Applicants respectfully submit that the present claim amendments and claim cancellations render this ground of rejection moot and accordingly request withdrawal of this rejection.

Claim rejections under 35 U.S.C. §112, first paragraph

Claims 1-8 and 13-16 have been amended to recite “Y” as “selected from the group consisting of Tyrosine, Asparagine, Serine and Threonine.” Claim 12 has been cancelled. Applicants respectfully submit that the present claim amendments and claim cancellations render this ground of rejection moot and accordingly request withdrawal of this rejection.

Claim rejections under 35 U.S.C. §102 in view of Mossesson et al., Muramatsu et al., Hubbel et al., Ward et al. or Leppanen et al.

Various claims have been rejected as being anticipated by Mossesson et al., Muramatsu et al., Hubbel et al., Ward et al. or Leppanen et al. With respect to the claim rejections in view of Mossesson et al., Muramatsu et al., and Hubbel et al., the Examiner has noted that “the limitation of binding to an antibody or antigen binding fragment thereof comprising SEQ ID NO:8 is not applied to the entirety of the claims. . . .” The claims have been amended to indicate that the epitope is capable of binding to a human antibody, antigen-binding fragment thereof, or complex thereof comprising at least one antibody or antigen-binding fragment thereof comprising SEQ ID NO:8. None of these references teach or suggest the claimed epitope capable of binding a human antibody, antigen-binding fragment thereof, or complex thereof comprising SEQ ID NO:8. Further, none of these references (including Ward et al. and Leppanen et al.) teach or suggest the claimed epitope capable of binding a human antibody antigen-binding fragment thereof, or complex thereof. Accordingly, applicants respectfully request withdrawal of this ground of rejection.

Claim rejections under 35 U.S.C. §103

Claim 1 has been rejected as being obvious in view of Panet et al. The Examiner states that Panet et al. disclose SEQ ID NO:8 and that it would be obvious that CD44V3-10 as expressed in Namalwa cells comprise the epitope of claim 1. Applicants respectfully traverse this ground of rejection. Panet et al. only teach that SEQ ID NO:8 (a peptide) binds to Namalwa cells transfected with CD44V3-10. Panet et al. have not taught the epitope to which SEQ ID NO:8 binds. Further since Namalwa cells would presumably express other cell surface markers, the cells would comprise other numerous epitopes that SEQ ID NO:8 could potentially bind. Panet et al. do not even teach that SEQ ID NO:8 is actually binding to CD44V3 as compared to some other epitope. Even if the Namalwa cells only had one epitope (which is highly unlikely), the reference has not taught or suggested the structure of the epitope to which SEQ ID NO:8 binds. A reference must be enabling and Panet et al. do not enable one of skill in the art to arrive at the epitope as claimed in claim 1. Accordingly, applicants request withdrawal of this ground of rejection.

CONCLUSION

Applicant respectfully requests entry of the present claim amendments and response and consideration of the above-identified application on the merits. It is believed that the application is in condition for allowance and such action is earnestly requested. If the Examiner wishes to discuss the present application, the Examiner is respectfully invited to contact the undersigned. The Office is authorized to charge any fees or credit any refunds due to Kenyon & Kenyon's Deposit Account No: 11-0600.

Respectfully submitted,
KENYON & KENYON

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